

## REMARKS

After entry of this Amendment, the pending claims are: claims 6-13, 15-18, 20, and 25-41. The Office Action dated July 17, 2007 has been carefully considered. Claims 1-5, 14, 19 and 21-24 were previously canceled as being directed to a non-elected invention. The Applicants explicitly reserved the right to file divisional applications directed towards the embodiments of claims 1-5, 14, 19 and 21-24. Claims 6, 8-10, 12, 13, 16, and 25 have been amended. The Examiner is thanked for allowance of claim 20. The Examiner is thanked for the indication of allowable subject matter in claims 8-10, 12, 13, 16, 17, 27 and 30. As an initial matter, claims 8-10, 12, 13 and 16 have been amended into independent claim form to include all of the limitations of the base claim including any intervening claims. Claims 31-41 have been added. No new matter has been added. Reconsideration and allowance of the pending claims in view of the above Amendments and the following Remarks is respectfully requested.

In the Office Action dated July 17, 2007, the Examiner:

- rejected claims 6, 7, 11, 18, 25, 26, 28 and 29 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,066,142 to Serbousek *et al.* (“Serbousek”);
- rejected claim 15 under 35 U.S.C. 103(a) as being unpatentable over Serbousek;
- objected to claims 8-10, 12, 13, 16, 17, 27 and 30 as being dependent on a rejected base claim. Otherwise the subject matter of claims 8-10, 12, 13, 16, 17, 27 and 30 would be allowable if rewritten into independent claim form to include all of the limitation of the base claim and any intervening claims; and
- allowed independent claim 20.

## **INDEPENDENT CLAIM 6**

Independent claim 6 has been rejected as being anticipated by Serbousek. As amended, independent claim 6 requires, *inter alia*, a surgical drill guide assembly comprising an outer stem and at least one drill guiding barrel, the at least one drill guiding barrel being pivotably attached to the outer stem.

Serbousek discloses a bone drilling guide apparatus 10, the apparatus 10 including a template 16, a telescopic mechanism 18, and drill and tap towers 20, 21. The template 16 includes a locking body 24 and a sliding body 26, the locking body 24 includes a slot 27 that receives the telescopic mechanism 18 so that the bone drilling guide apparatus 10 can telescope in order to size and prepare a pre-determined bone site 12 for one of numerous length plates 14. The drill and tap towers 20, 21 are secured to the superior surface 30 of the locking body 24 and sliding body 26, respectively.

It is respectfully submitted that Serbousek does not disclose, teach or suggest a drill guiding barrel that is pivotably attached to the outer stem. Rather, Serbousek discloses a telescopic template 16 that includes a first drill and tap tower 20 located on the sliding body 26 and a second drill and tap tower 21 located on the locking body 24 so that the first and second drill and tap towers 20, 21 are moveable with respect to one another as the sliding body 26 is telescopically moved with respect to the locking body 24. There is absolutely no disclosure, teaching or suggestion in Serbousek of a drill guiding barrel that is pivotably attached to the outer stem.

Thus, it is respectfully submitted that Serbousek does not teach, disclose, or suggest all of the limitations of independent claim 6. Withdrawal of this rejection and allowance of independent claim 6 is respectfully requested.

Furthermore, as claims 7, 11, 15, and 18 all depend from independent claim 6, it is submitted that claims 7, 11, 15, and 18 are equally allowable. Withdrawal of these rejections and allowance of claims 7, 11, 15, and 18 is also respectfully requested.

#### **DEPENDENT CLAIM 8**

Dependent claim 8 was objected to as being dependent on a rejected base claim. The Examiner indicated that dependent claim 8 would be allowable if rewritten in independent claim form to include all of the limitations of the base claim and any intervening claims. Dependent claim 8 has been rewritten into independent claim form and includes all of the limitations of independent claim 6 and intervening claim 7. Thus, it is respectfully submitted that claim 8 is allowable over the cited prior art. Withdrawal of this objection and allowance of independent claim 8 is respectfully requested.

Furthermore, newly added dependent claims 31-33 all depend from independent claim 8, thus it is submitted that claims 31-33 are equally allowable.

#### **DEPENDENT CLAIM 9**

Dependent claim 9 was objected to as being dependent on a rejected base claim. The Examiner indicated that dependent claim 9 would be allowable if rewritten in independent claim form to include all of the limitations of the base claim and any intervening claims. Dependent claim 9 has been rewritten into independent claim form and includes all of the limitations of independent claim 6. Thus,

it is respectfully submitted that claim 9 is allowable over the cited prior art. Withdrawal of this objection and allowance of independent claim 9 is respectfully requested.

Furthermore, dependent claim 10 depends from independent claim 9, thus it is submitted that this claim is equally allowable. Withdrawal of this rejection and allowance of claim 10 is also respectfully requested.

Furthermore, newly added dependent claim 34 depends from independent claim 9, thus it is submitted that claim 34 is equally allowable.

#### **DEPENDENT CLAIM 12**

Dependent claim 12 was objected to as being dependent on a rejected base claim. The Examiner indicated that dependent claim 12 would be allowable if rewritten in independent claim form to include all of the limitations of the base claim and any intervening claims. Dependent claim 12 has been rewritten into independent claim form and includes all of the limitations of independent claim 6. Thus, it is respectfully submitted that claim 12 is allowable over the cited prior art. Withdrawal of this objection and allowance of independent claim 12 is respectfully requested.

Furthermore, newly added dependent claims 35-37 all depend from independent claim 12, thus it is submitted that claims 35-37 are equally allowable.

#### **DEPENDENT CLAIM 13**

Dependent claim 13 was objected to as being dependent on a rejected base claim. The Examiner indicated that dependent claim 13 would be allowable if rewritten in independent claim form to include all of the limitations of the base claim and any intervening claims. Dependent claim 13 has been

rewritten into independent claim form and includes all of the limitations of independent claim 6. Thus, it is respectfully submitted that claim 13 is allowable over the cited prior art. Withdrawal of this objection and allowance of independent claim 13 is respectfully requested.

Furthermore, newly added dependent claims 38-40 all depend from independent claim 13, thus it is submitted that claims 38-40 are equally allowable.

#### **DEPENDENT CLAIM 16**

Dependent claim 16 was objected to as being dependent on a rejected base claim. The Examiner indicated that dependent claim 16 would be allowable if rewritten in independent claim form to include all of the limitations of the base claim and any intervening claims. Dependent claim 16 has been rewritten into independent claim form and includes all of the limitations of independent claim 6. Thus, it is respectfully submitted that claim 16 is allowable over the cited prior art. Withdrawal of this objection and allowance of independent claim 16 is respectfully requested.

Furthermore, dependent claim 17 depends from independent claim 16, thus it is submitted that claim 17 is equally allowable. Withdrawal of this rejection and allowance of claim 17 is also respectfully requested.

Furthermore, newly added dependent claim 41 depends from independent claim 16, thus it is submitted that claim 41 is equally allowable.

#### **INDEPENDENT CLAIM 25**

Independent claim 25 has been rejected as being anticipated by Serbousek. As amended, independent claim 25 requires, *inter alia*, a surgical drill guide assembly comprising an outer stem and a drill guiding barrel, the drill guiding barrel being pivotably attached to the outer stem, the drill guiding

barrel being pivotable about an axis of rotation disposed outside of the outer stem and substantially parallel to the first longitudinal axis.

As previously discussed in connection with independent claim 6, it is respectfully submitted that Serbousek does not disclose, teach or suggest a drill guiding barrel that is pivotably attached to the outer stem. Rather, Serbousek discloses a telescopic template 16 that includes a first drill and tap tower 20 located on the sliding body 26 and a second drill and tap tower 21 located on the locking body 24 so that the first and second drill and tap towers 20, 21 are moveable with respect to one another as the sliding body 26 is telescopically moved with respect to the locking body 24.

Therefore, it is respectfully submitted that Serbousek does not disclose, teach, or suggest all of the limitations of independent claim 25. Withdrawal of this rejection and allowance of independent claim 25 is respectfully requested.

Furthermore, as claims 26 and 27 both depend from independent claim 25, it is submitted that claims 26 and 27 are equally allowable. Withdrawal of these rejections and allowance of claims 26 and 27 is also respectfully requested.

#### **INDEPENDENT CLAIM 28**

Independent claim 28 has been rejected as being anticipated by Serbousek. Independent claim 28 requires, *inter alia*, a surgical drill guide assembly comprising an outer stem and a drill guiding barrel, the drill guiding barrel being pivotably attached to the outer stem.

As previously discussed in connection with independent claim 6, it is respectfully submitted that Serbousek does not disclose, teach or suggest a drill guiding barrel that is pivotably attached to the outer stem. Rather, Serbousek discloses a telescopic template 16 that includes a first drill and tap tower 20 located on the sliding body 26 and a second drill and tap tower 21 located on the locking body 24 so that the first and second drill and tap towers 20, 21 are moveable with respect to one another as the sliding body 26 is telescopically moved with respect to the locking body 24.

Therefore, it is respectfully submitted that Serbousek does not disclose, teach, or suggest all of the limitations of independent claim 28. Withdrawal of this rejection and allowance of independent claim 28 is respectfully requested.

Furthermore, as claims 29 and 30 both depend from independent claim 28, it is submitted that claims 29 and 30 are equally allowable. Withdrawal of these rejections and allowance of claims 29 and 30 is also respectfully requested.

## CONCLUSION

A fee of \$1,600 is believed due with this submission for the incorporation of 5 independent claims plus 11 additional dependent claims. The Commissioner is hereby authorized to charge this fee and any other fees which may now or hereafter be due in this application to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

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Respectfully submitted,

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